

**R E M A R K S**

Claims 98-103 and 105-120 are pending in the present application. Claim 104 has been cancelled. Claims 98, 103 and 105 have been amended. New claims 114-120 have been added. Support for the amendment and new claims may be found in the claims as originally filed and in the specification at page 118, lines 1-15, among other places. Both the parent application and this application describe methods and advices for performing cell migration assays. The instant application describes additional embodiments, for cell migration assays. The following rejections are at issue:

1. Claims 98-101 and 103-105 are rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham);
2. Claim 102 is rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham) and WO 99/63329 (Abbott);
3. Claims 103-105 are rejected under 35 USC 112 as allegedly being indefinite.

These rejections are addressed in order below.

**1. Claims 98-101 and 103-105 are not obvious**

Claims 98-101 and 103-105 are rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham). Applicants respectfully disagree. A *prima facie* case of obviousness requires the Examiner to cite a combination of references which (a) disclose the elements of the claimed invention, (b) suggests or motivates one of skill in the art to combine those elements to yield the claimed combination, and (c) provides a reasonable expectation of success should the claimed combination be carried out. Failure to establish any one of the these three requirements precludes a finding of a *prima facie* case of obviousness, and, without more, entitles Applicant to allowance of the claims in issue. In addressing

this rejection, Applicants focus on the independent claims since non-obviousness of an independent claim necessarily leads to non-obviousness of claims dependent therefrom. The cited references do not teach element of the claims.

In particular, neither of the references, alone or in combination, describe a method that uses a cell seeding device that contacts said bottom surface of a well in a multiwell plate to define a predetermined area on the bottom surface of a well so that cells are seeded in the predetermined area on the bottom surface of the well and excluded from the remainder of the bottom surface of the well. The claims have been amended to highlight this distinction. Goldbard ( in paragraph 52 cited by the Examiner, and in Figures 1, 2, and 3) describes a system where a membrane is suspended within a well and thus over the bottom surface of the well and the cells are seeded on the membrane and not the bottom surface of the well. The cells placed on the membrane in Goldfarb migrate from the membrane to the bottom surface of the well. The cells do not migrate from a predetermined area on the bottom of the well as claimed. Thus, Goldbard does not 1) teach the step of inserting a cell seeding device into a well of a multiwell plate so that the cell seeding device contacts the bottom surface of the well to define a predetermined area or 2) applying cells to the well in the presence of the device so that cells are seeded in the predetermined area and excluded from the remainder of said bottom surface of the well. Pham does not cure this defect. Pham does not disclose any method for confining cells to a predetermined area on the bottom surface of a well so that migration outside of the predetermined area can be assayed.

For the foregoing reasons, Applicants respectfully request that this rejection be withdrawn.

## **2. Claims 102 is not obvious**

Claim 102 is rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham) and WO 99/63329 (Abbott). Abbott does not cure the defects noted for the combination of Goldbard and Pham. In particular, Abbott does not disclose any method for confining cells to a predetermined area on the bottom surface of a well so that migration outside of the predetermined area can be assayed. Accordingly, Applicants respectfully request that this rejection be withdrawn.

**3. The indefiniteness rejection is moot**

Claims 103-105 are rejected under 35 USC 112 as allegedly being indefinite. The claims have been amended to address this rejection. Accordingly, Applicants respectfully request that this rejection be withdrawn.

**C O N C L U S I O N**

All grounds of rejection and objection of the Office Action of June 26, 2009 having been addressed, reconsideration of the application is respectfully requested. It is respectfully submitted that the invention as claimed fully meets all requirements and that the claims are worthy of allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned collect at (608) 662-1277.

Dated: November 2, 2009

/Mitchell Jones/  
Mitchell Jones  
Registration No. 44,174

CASIMIR JONES, C.C.  
2275 Deming Way, Suite 310  
Middleton, WI 53562